

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Wensink Farm Seeds, Inc.,)	Case No. 3:16-cv-1282-JJH
)	
Plaintiff/Counterclaim-Defendant,)	Judge Jeffrey J. Helmick
)	
vs.)	
)	
Howard N. Lafever <i>et al.</i> ,)	
)	
Defendants/Counterclaimants.)	

**Wensink’s Farm Seeds, Inc.’s Motion to Strike Declaration
of Connor Kinsey (ECF # 19-1) and Portions of Lafever’s Reply Brief**

Wensink Farm Seeds, Inc. moves the Court to strike the improper declaration of Connor Kinsey (ECF # 19-1) and the following sections in the summary judgment reply brief (ECF # 19) by counterclaimants Howard N. Lafever and French’s Hybrids, Inc. (collectively, “Lafever”): Sections II, III.A, III.C, and III.D. As explained in the attached brief in support, which is incorporated here by reference, Lafever may not offer new evidence or legal theories in a *reply* brief. Because Wensink has no opportunity to respond to evidence and arguments presented for the first time on reply, the appropriate remedy is for the Court to strike and disregard all of if this new matter.

Dated: September 9, 2016

s/ Matthew J. Cavanagh
Matthew J. Cavanagh (OH 0079522)
McDONALD HOPKINS LLC
600 Superior Avenue, East, Ste. 2100
Cleveland, Ohio 44114
t 216.348.5400 | f 216.348.5474
mcavanagh@mcdonaldhopkins.com

Counsel for Wensink Farm Seeds, Inc.

Certificate of Service

I hereby certify that on September 9, 2016, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt, and parties may access this filing through the Court's system.

s/ Matthew J. Cavanagh
Counsel for Wensink Farm Seeds, Inc.